

State of New Hampshire  
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095

(603) 271-3503 FAX (603) 271-5171



Robert Demers  
123 Staples Hill Road  
Canton, ME 04221

Re: Rolling Ridge Water System  
Bartlett, NH  
EPA # 0162130

ADMINISTRATIVE ORDER  
No. WD 98-37

December 28, 1998

RECEIVED  
CARROLL COUNTY REGISTRY  
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J. J. B. B. B.  
REGISTER OF DEEDS

A. INTRODUCTION

This Administrative Order is issued by the Department of Environmental Services, Water Division, to Robert Demers pursuant to NH RSA 485:4 and NH RSA 485:58.

B. PARTIES

1. The Department of Environmental Services, Water Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its principal offices at 6 Hazen Drive, Concord, NH.
2. Robert Demers is an individual having a mailing address of 123 Staples Hill Road, Canton, ME 04221.

C. STATEMENTS OF FACT AND LAW

1. Robert Demers is the owner of the water system which serves 35 residences in Bartlett, NH ("Water System"). The Water System is a community water system as defined in NH RSA 485:1-a, I and NH Admin. Rule Env-Ws 302.02(i).
2. NH RSA 485:3 authorizes DES to adopt drinking water rules which identify contaminants which may have an adverse effect on health, which establish maximum contaminant levels that are acceptable in water for human consumption, which establish criteria and procedures to assure compliance with such maximum levels, and which identify criteria and standards to ensure the proper operation and maintenance of water systems.
3. NH Admin. Rule Env-Ws 306 requires that each community water system be subject to a sanitary survey once every three years. The purpose of a sanitary survey is to conduct on-site reviews in order to evaluate the adequacy of the source(s), storage facilities, equipment, operation, and maintenance to produce and distribute safe drinking water.

BK 1785 PG 716

4. On September 15, 1987, a full sanitary survey was performed at the Water System by DES personnel. The November 6, 1987, survey report sent to Mr. Demers noted the following significant deficiencies:

- a. The system lacks a properly constructed, above-ground pump station;
- b. The system lacks a low water alarm.

5. There is no record of the requested written response to the significant deficiencies noted in the November 6, 1987, survey letter.

6. On August 29, 1991, a full sanitary survey was performed at the Water System. The November 22, 1991, survey report sent to Mr. Demers noted the following significant deficiencies:

- a. The system lacks a modern above-ground pump station. It was noted that the current pump station has been experiencing flooding;
- b. The system lacks a low water alarm;
- c. Hydropneumatic storage capacity is inadequate. In addition, the rusted condition of the tanks requires an inspection by a water system consultant or dealer to determine the tanks structural integrity and efficiency. Tanks may require replacement;
- d. The well head is buried below ground level and is subject to flooding as it is located in a roadside ditch. The well head should be extended at least two feet above ground level and bermed with clay;
- e. Electrical boxes and other metal components in the pump station, including the tanks, are corroded. This corrosion is due to a lack of adequate ventilation. Many station components need to be repaired or replaced;
- f. The system lacks duplicate booster pumps;
- g. The system lacks master water meters;
- h. The system lacks separate sampling taps for the source(s).

7. There is no record of the requested written response to the significant deficiencies noted in the November 22, 1991, survey letter.

8. On June 14, 1994, a full sanitary survey was performed at the Water System. The June 28, 1994, survey report sent to Mr. Demers noted the following significant deficiencies:

- a. The atmospheric storage tank vent must be screened immediately to prevent the entry of contaminants;
- b. Duplicate booster pumps are needed;
- c. An excessive amount of water was noted in the pumphouse. This promotes corrosion of equipment and creates electrical hazards. Measures must be taken to adequately drain the pumphouse and prevent flooding;
- d. The system needs to install a sampling tap for the source;

BK 1785 PG 717

- e. The well head is buried below ground level subjecting it to flooding and contamination. This situation is unacceptable and must be corrected immediately;
- f. All community water supply wells require a sanitary protective area within which no leach fields, oil, debris or other hazardous materials may be located or stored. Currently this requirement is not being met;
- g. The well sanitary seal/cap is loose or missing and needs to be replaced/sealed immediately;
- h. The system lacks a properly constructed, above-ground pump station. The existing pump station is below ground level, subject to corrosion and flooding, has poor access, and a lack of space for operation, maintenance and future treatment; the station lacks a floor drain, lights, heater, ventilation, water meter, well pump switch and well source tap. A new above-ground pump house should be constructed in accordance with NH Admin. Rule Env-Ws 372 "Design Standards For Small Public Water Systems".

9. There is no record of the required written response to the significant deficiencies noted in the June 28, 1994, survey letter.

10. By letter dated June 27, 1994, DES informed Mr. Demers that the Water System's sampling schedule for bacteria was being increased from a quarterly basis to a monthly basis. The sampling schedule change was made because the Water System is at increased risk of bacterial contamination due to numerous deficiencies.

11. On August 31, 1994, a follow-up sanitary survey was performed at the Water System to determine if the deficiencies noted in the June 28, 1994, survey report had been corrected. Upon inspection, DES staff found that none of the deficiencies has been addressed. The follow-up survey report, dated October 20, 1994 and sent to Mr. Demers, instructed the Water System to submit a compliance schedule to address and correct the noted deficiencies within 30 days.

12. There is no record of the required written response to the significant deficiencies noted in the October 20, 1994, follow-up survey letter.

13. On December 5, 1994, a Letter of Deficiency ("LoD") was issued to the Water System in care of Mr. Demers. The LoD addressed the following deficiencies:

- a. Well #1 casing is less than one foot above ground level.
- b. Well #1 casing does not have an adequate sanitary seal.
- c. The water system does not have a modern above-ground pumphouse. The current pumphouse is located in the roadbed and is not on property under the ownership of the owner. The pump house is subject to roadside runoff and groundwater flooding.

BK 1785 PG 718

14. The December 5, 1994, LoD requested that within 45 days a qualified engineer or water system consultant be retained to study the Water System's deficiencies and capabilities and that a report of the findings and recommendations be submitted to DES.

15. On January 30, 1995, DES received written notification from Water Industries, Inc. that the items noted in C.13.a and C.13.b, above, had been corrected.

16. NH Admin. Rule Env-Ws 367.02 requires all community water systems to retain the services of an operator who is certified by DES to perform operating functions.

17. Mr. Demers allowed his certified operator license (#988) to lapse as of January 1, 1994. To the knowledge of DES personnel, the Water System was operating without a certified operator from January 1, 1994, until June 15, 1995.

18. On March 10, 1995, pursuant to statutory requirements then in effect, a proposed Administrative Order was sent to Mr. Demers. Following a hearing on the matter held on May 19, 1995, Administrative Order No. WSPCD 95-14, dated May 31, 1995, ("1995 Order") was issued to the Water System in care of Mr. Demers.

19. The 1995 Order addressed the Water System's failure to correct the deficiencies identified in the sanitary survey reports of November 6, 1987, November 22, 1991, June 28, 1994, and October 20, 1994, as well as the failure to have a certified operator. The 1995 Order required Mr. Demers to do the following:

- a. Within 30 days of the receipt of the Order, retain the services of a qualified water consultant to address the system's outstanding survey deficiencies;
- b. Within 60 days of the receipt of the Order, submit to DES for review a report which includes recommendations and an implementation schedule to correct water system deficiencies;
- c. Within 90 days of the receipt of the Order, complete all work outlined in the consultant's report; and
- d. Within 10 days of the receipt of the Order, hire a certified operator to maintain the Water System, and submit to DES in writing the name and address of the operator.

20. On June 16, 1995, DES received a letter from Robert Carleton of Water Industries, Inc stating that as of June 15, 1995, he would be the certified operator of the Water System and that the company was working with Mr. Demers to attempt to correct some of the Water System's deficiencies.

21. On July 18, 1995, DES received a letter from Francis Lyons of F.X. Lyons, Inc stating that as of July 1, 1995, he was the certified operator of the Water System.

22. On August 4, 1995, DES received a letter from Mr. Demers in which he stated the following:

- a. Francis Lyons will be the certified operator until further notice.
- b. Steps are being taken to dispose of the system, but due to the complexities of the project, additional time is needed.
- c. The response to efforts to transfer ownership have been encouraging and results are expected within 90 days.
- d. In the near future, the Bartlett Village Precinct is expected to decide whether to expand its system to supply water to Rolling Ridge and three other nearby systems, as encouraged by a letter from DES staff to the Precinct. If the expansion is approved, the Water System owner believes the need to build a new pump station at Rolling Ridge would be eliminated.

23. With the exception of the hiring of a certified operator after the deadline contained in the 1995 Order, DES has no record of the required responses to the 1995 Order.

24. On October 6, 1995, DES sent a reminder letter to Mr. Demers noting that the Water System had not complied with the 1995 Order and requesting that total compliance with the 1995 Order be achieved by December 31, 1995.

25. DES has no record of any response by Mr. Demers to the October 6, 1995, reminder letter.

26. On or about February 8, 1996, a Notice of Proposed Administrative Fine and Hearing No. AF 96-02 ("NPF/H") was sent to the Water System owner. Pursuant to NH RSA 485:58 and NH Admin. Rule Env-C 602.10(f), the NPF/H proposed a fine of \$2,000 for failure to comply with the 1995 Order.

27. On March 6, 1996, DES received a Waiver of Hearing form for the NPF/H signed by Mr. Demers, accompanied by payment of the \$2,000 fine.

28. NH Admin. Rule Env-Ws 326.01 requires community water systems to monitor for the presence of certain regulated inorganic chemicals, including beryllium.

29. NH Admin. Rule Env-Ws 316.01 sets the maximum contaminant level (MCL) for beryllium at 0.004 mg/L.

30. Water samples submitted by the Water System in the second quarter ("Q2") of 1994, Q3-94, and Q2-96 contained beryllium at levels of 0.009 mg/L, 0.009 mg/L, and 0.007 mg/L, respectively. Thus, the MCL for beryllium was exceeded in all three samples.

BK 1785 PG 720

31. On September 9, 1996, a Letter of Deficiency ("September 1996 LoD") was issued to the Water System in care of Mr. Demers. In pertinent part, the September 1996 LoD addressed the three beryllium MCL exceedences and requested Mr. Demers to do the following:

- a. Notify all consumers of the exceedences;
- b. Provide proof of public notice to DES;
- c. Continue to sample for beryllium quarterly;
- d. By October 1, 1996, retain a qualified consultant to address the presence of beryllium;
- e. By November 1, 1996, submit the consultant's report and an implementation schedule to DES for approval; and
- f. By January 1, 1997, correct the MCL violations or install treatment.

32. The Water System made the requested responses to the items noted in C.31.a., b., and d., and to date has sampled for beryllium on a quarterly basis.

33. On January 7, 1997, Francis Lyons, the Water System's consultant, wrote DES in response to the September 1996 LoD. Mr. Lyons noted that there were limited options available to the system because the "pump house" lacked room for treatment equipment and no land was available for expansion. Mr. Lyons further stated that residents would be advised to use bottled water until such time as a suitable course of action could be agreed upon with Mr. Demers.

34. DES has received no further correspondence from the Water System concerning the September 1996 LoD.

35. On March 7, 1997, DES sent a reminder letter to the Water System indicating that three significant deficiencies listed on the June 28, 1994, sanitary survey report still had not been corrected. The reminder letter identified the three deficiencies as the lack of a sampling tap, the flooded pumphouse condition, and the unacceptable location and condition of the pumphouse.

36. There is no record of any response by the Water System to the March 7, 1997, reminder letter.

37. On August 9, 1997, a sanitary survey was performed at the Water System by DES personnel. The September 23, 1997, survey report sent to Mr. Demers noted the following significant deficiencies:

- a. The pumphouse is located in the shoulder of a road and is subject to flooding. The access hatch is unsecured and the hinge is broken. Winter access to the pumphouse is not possible due to snow buildup. There is little room for repair and maintenance, and there is no room for treatment equipment. There is no heat or ventilation which has resulted in serious corrosion to the system components. The pumphouse location is a hazard.

BK 1785 PG 721

- b. The well source is located in the road shoulder and is subject to runoff. In addition, the well source lacks a sanitary protective radius.

38. DES has no record of the requested written response to the significant deficiencies noted in the September 23, 1997, survey report.

#### D. DETERMINATION OF VIOLATIONS

1. The Water System has violated NH Admin. Rule Env-Ws 306 by failing to correct the deficiencies as noted in the Sanitary Survey Reports of November 6, 1987, November 22, 1991, June 28, 1994, October 20, 1994, and September 23, 1997, survey reports.

2. The Water System has violated NH Admin. Rule Env-Ws 316.01 by supplying water which exceeds the MCL for beryllium.

3. As owner of the Water System, Robert Demers is responsible for the violations noted herein.

#### E. ORDER

Based on the above findings and determinations, DES hereby orders Robert Demers as follows:

1. Within 20 days of the receipt of this Order, retain the services of a qualified water consultant to identify and address the system's outstanding survey deficiencies and water quality issues.

2. Within 25 days of the receipt of this Order, submit in writing to DES the name, address, and phone number of the retained consultant.

3. Within 30 days of the receipt of this Order, submit to DES a copy of an executed contract with the retained consultant that, at a minimum, indicates that the consultant is to inspect the current pump house and well, review the Water System's file maintained by DES's Water Supply Engineering Bureau, meet with the DES inspector involved with the Water System, and write a report which includes recommendations and an implementation schedule to bring the Water System into compliance with all applicable regulations.

4. Within 90 days of the receipt of this Order, submit to DES for review and approval a copy of the consultant's written report.

5. Complete all recommended improvements according to the implementation schedule contained in the consultant's report, as approved by DES.

BK 1785 PG 722

#### F. APPEAL

This Order is effective upon issuance. If you are aggrieved by this Order, you may appeal this decision to the New Hampshire Water Council in accordance with NH Admin. Rules Env-WC 200. Such appeal must be filed with the Council within 30 days of the issuance of this Order and must be addressed to Chairman, Water Council, 6 Hazen Drive, PO Box 95, Concord, NH 03302-0095. Filing an appeal of the Order will not automatically relieve you of your obligation to comply with the Order.

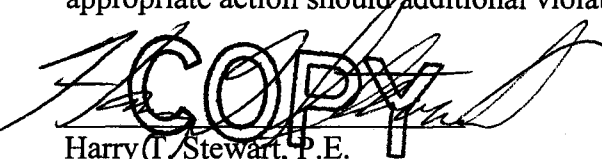
#### G. OTHER PROVISIONS


Please address all correspondence to:

Rene Pelletier, Administrator  
Department of Environmental Services  
Water Supply Engineering Bureau  
6 Hazen Drive, PO Box 95  
Concord, NH 03302-0095

This Order is being recorded in the Carroll County Registry of Deeds so as to run with the land.

Please note that NH RSA 485:58 provides for civil and criminal penalties and administrative fines for violation of this statute as well as for failing to comply with this Order. DES will continue to monitor the compliance status of the Water System and will take appropriate action should additional violations occur.

  
Harry T. Stewart, P.E.  
Director

  
Robert W. Varney  
Commissioner

Certified Mail No: P 204 345 942

cc: Gretchen Rule, Esq., Enforcement Coordinator  
Michael Walls, Esq., NH DOJ  
US EPA, Region I  
Carroll County Registry of Deeds

BK 1785 PG 723